

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

PATRICIA DIGGS
1901 Taylor St.
Detroit, Michigan 48206

Plaintiff,

V.

WEBER & OLCESE PLC
c/o Michael J. Obcese, Registered Agent
3250 W Big Beaver Road, Suite 124
Troy, Michigan 48084

Defendant.

Case No.: 2:12-cv-13396

JURY DEMAND REQUESTED

VERIFIED CIVIL COMPLAINT
(Unlawful Debt Collection Practices)

VERIFIED COMPLAINT

PLAINTIFF PATRICIA DIGGS (Plaintiff), by her attorneys, KAHN AND ASSOCIATES, L.L.C., alleges the following against DEFENDANT WEBER OLCESE PLC (Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.
3. Because Defendant conducts business in Michigan, personal jurisdiction is established.

4. Venue is proper pursuant to 28 *U.S.C. 1391(b)(2)*.

PARTIES

5. Plaintiff is a natural person who resides in Detroit, County, Michigan and is allegedly obligated to pay a debt, and Plaintiff is a "consumer" as that term is defined by 15 *U.S.C. 1692a(3)*.
6. Pursuant to the definitions outlined in 15 *U.S.C. 1692a(1-6)*, Defendant is a debt collector and sought to collect a consumer debt from Plaintiff which was allegedly due and owing from Plaintiff, and Plaintiff is a consumer debtor.
7. Defendant is a debt collector with an office in Troy, Michigan.
8. Defendant uses instrumentalities of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by 15 *U.S.C. § 1692a(6)*.
9. Defendant is a collection agency that in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

10. Defendant places collection calls to Plaintiff in an attempt to collect an alleged debt.
11. Plaintiff receives telephone calls from Defendant from telephone number: 800-594-5801.
12. Defendant calls asking for another person and uses account number 1028007. Plaintiff believes Defendant is asking for a person named Diane Siantey.

13. On or about November 23, 2011, Plaintiff sent an email to Defendant demanding Defendant cease and desist contacting her or any family and friends in regard to all alleged debts.

14. In the email, Plaintiff included an account number as well as her name and address.

15. On or about November 26, 2011, Defendant placed another collection call to Plaintiff. The call came from telephone number 800-594-5801.

16. Plaintiff has attempted to call the number back, but always receives an automated message.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

17. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692c(c) by failing to cease further communications with the consumer after being notified in writing that the consumer refuses to pay the debt or that the consumer wishes the debt collector to cease further communication.

WHEREFORE, Plaintiff, PATRICIA DIGGS, respectfully requests judgment be entered against Defendant, WEBER OLCESSE PLC for the following:

18. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,

19. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*

20. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff, PATRICIA DIGGS, requests a jury trial in this case.

RESPECTFULLY SUBMITTED,

KAHN & ASSOCIATES, L.L.C.

/s/ J. Daniel Scharville

J. DANIEL SCHARVILLE (P67103)
6200 Rockside Woods Blvd., Suite 215
Independence, Ohio 44131
Ph.: (216) 621-6101
Fax: (216) 621-6006
Attorney for the Plaintiff

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF MICHIGAN

Plaintiff, PATRICIA DIGGS, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.

Pursuant to 28 U.S.C. § 1746(2), I, PATRICIA DIGGS, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

3-20-2012
Date

Patricia Diggs
PATRICIA DIGGS